

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION
JOHN O. PASTORE CENTER, BLDGS 68-69
1511 PONTIAC AVENUE
CRANSTON, RHODE ISLAND 02920**

IN THE MATTER OF:

WILLIAM DUQUETTE,

RESPONDENT.

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DBR No.: 09-L-0228

CONSENT ORDER

The Department of Business Regulation (“Department”) and William Duquette (“Respondent”) hereby consent and agree that:

1. Respondent is licensed by the Department as a real estate salesperson, and currently holds license number S31461. The Respondent is not presently licensed as a real estate broker.

2. A complaint filed with the Department on August 5, 2009 (“Complaint”) alleged that Respondent engaged in a real estate transaction involving the rental of a condominium owned by the Complainant located at 54A Wedge Row, North Providence, Rhode Island (“subject property”). The Complainant resided in Ukraine at all times relevant hereto.

3. The Complaint alleged that in December 2008, the Complainant contacted the Respondent to obtain assistance in locating prospective tenants to lease the subject property. The Respondent provided to the Complainant a business card that identified him as the owner and operator of a property management company known as Duquette Property Management, LLC (“Management Company, DPM”).

4. According to the Complaint, no written contract for the provision of property management services was ever executed between the Respondent and the Complainant.

5. After consulting with the Respondent, the Complainant made a verbal agreement for the leasing of the subject property for the monthly rent amount of \$1,500.00.

6. In April of 2009, the Complainant agreed to have the subject property leased at a reduced monthly rent amount of \$1,350.00, authorized the Respondent to list the rental at that rate, and agreed to pay the Respondent a fee equal to one month's rent.

7. On April 27, 2009, the Respondent executed a lease agreement for the subject property with a tenant for the monthly rental amount of \$1,250.00, without first obtaining the authorization or consent of the Complainant, and without his prior knowledge.

8. The Respondent collected the amount of \$2,500.00 from the above-referenced tenant on April 27, 2009, which amount represented a security deposit and one month's rent.

9. On May 26, 2009, the Complainant sent an electronic mail message to the Respondent, terminating his services and instructing that he forward all monies collected for the unauthorized rental, and any documents pertaining to same to the Complainant's agent.

10. The Respondent did not respond to the Complainant's request until October 8, 2009, when he mailed a bank check in the amount of \$1,300.00 to the Complainant's agent along with a handwritten note from the Respondent stating it was "for the security deposit and \$50 interest." Said check was not drawn on an escrow account or identified as escrowed funds.

11. On September 15, 2009, the Department sent to the Respondent by certified mail a copy of said Complaint and a letter advising him that he had twenty (20) days in which to respond to the allegations in the Complaint, and that failure to do so may result in sanctions against his license.

12. The Respondent did not respond to the Complaint or to the Department's written request for a response.

13. An investigator for the Department contacted the Respondent regarding the Complaint on or about December 1, 2009, and discovered that the Property Management Company is currently in operation, and its business is conducted from the Respondent's home.

14. Respondent identified himself in a telephone call from the Department on or about October 21, 2009 as being the owner and principal broker for the Property Management Company, DPM.

15. In the course of the Department's investigation, it was determined that the Respondent was engaging in activities requiring a broker's license, which he does not hold.

16. The Department learned that Respondent did not maintain an escrow account for DPM and he advised the Department's legal counsel on December 7, 2009 that his practice is to deposit client funds into a non-escrow business checking account, and that refunds or payments to clients are either paid from that or sometimes paid from his personal checking account, which he holds jointly with his wife. The Respondent admitted that he is co-mingling client funds with his own in both of these accounts.

17. On December 11, 2009, the Director of the Department entered an Order to Show Cause Why Cease and Desist Unlicensed Practices should not issue, Intent to Sanction License and Notice of Hearing.

18. A pre-hearing conference was held before a Hearing Officer at the Department on January 11, 2010, at which time a Temporary Cease and Desist Order was entered, requiring the Respondent to cease all unlicensed property management and rental activities forthwith.

19. On February 3, 2010, the Department in its ongoing investigation determined that the Respondent continued to conduct rental and property management activities after January 11, 2010, as evidenced by the continued accessibility to his rental website and the continued incorporated existence of Duquette Property Management, in violation of the Cease and Desist Order issued by the Department.

RELEVANT LAW

1. R.I. Gen. Laws § 5-20.5-1(4) defines “real estate broker” as any person or corporation who, for a fee, commission, or other valuable consideration, or who with the intention or expectation of receiving or collecting a fee, commission, or other valuable consideration, lists, sells, or purchases any real estate or who negotiates or attempts to negotiate any such activity.

2. R.I. Gen. Laws § 5-20.5-1(4) further defines “real estate broker” as any person or corporation who directs or assists in the procuring of a purchaser or prospect calculated or intended to result in a real estate transaction.

3. R.I. Gen. Laws § 5-20.5-1(5) defines “real estate salesperson” as any person employed or engaged as an independent contractor by or on behalf of a licensed real estate broker to do or deal in any activity as included or comprehended by the definitions of a real estate broker in R.I. Gen. Laws § 5-20.5-1(4), for compensation or otherwise.

4. Section 12(A) of *Commercial Licensing Regulation 11 – Real Estate Brokers and Salespersons* requires that any person who performs any of the acts within the meaning of “real estate broker” pursuant to R.I. Gen. Laws §5-20.5-1(4) in the regular course of, or incident to, the management of another person’s real property shall be licensed pursuant to Chapter 20.5 of Title 5 of the Rhode Island General Laws.

5. R.I. Gen. Laws § 5-20.5-14(a)(1) authorizes the Department to suspend or revoke a license where a licensee makes any substantial misrepresentation in a real estate transaction.

6. R.I. Gen. Laws § 5-20.5-14(a)(12) authorizes the Department to suspend or revoke a license where a salesperson licensee accepts a commission or any valuable consideration from any person except the licensed real estate broker from whom he is affiliated.

7. R.I. Gen. Laws § 5-20.5-14(a)(17) authorizes the Department to suspend or revoke a license where a licensee fails within a reasonable time to provide information requested by the Department as the result of a complaint, which would indicate a violation of this chapter.

8. R.I. Gen. Laws § 5-20.5-14(a)(20) authorizes the Department to suspend or revoke a license where a licensee engaged in any conduct in a real estate transaction that demonstrates bad faith, dishonesty, untrustworthiness, or incompetency.

9. R.I. Gen. Laws § 5-20.5-26 requires that each real estate firm shall maintain an escrow account under the supervision of a real estate broker and it further prohibits a salesperson or broker from commingling deposit money or other customers' funds with his or her own funds.

10. Section 18(A) of *Commercial Licensing Regulation 11 – Real Estate Brokers and Salespersons* prohibits the commingling of funds by failing to segregate promptly any monies received that are held for the benefit of others.

11. Section 18(B) of *Commercial Licensing Regulation 11 – Real Estate Brokers and Salespersons* prohibits salespersons from holding client funds.

Based on the facts and circumstances set forth herein, the Department has cause to believe that the Respondent has violated the provisions of R.I. Gen. Laws §§ 5-20.5-14(a)(1), (12), (17), (20), and § 5-20.5-26, and Sections 12(A), 18(A) and (B) of *Commercial Licensing Regulation 11 – Real Estate Brokers and Salespersons*.

Based on the foregoing, the Department has reason to believe that, had the hearing in this matter concluded, the Department would have demonstrated that Respondent has violated the Rhode Island General Laws and Commercial Licensing Regulation 11, *Real Estate Brokers and Salespersons*, as set forth herein.

WHEREFORE, it has been determined by the Department that it is in the public interest to resolve the above-referenced matters without the continuation of the administrative hearing process. In making its determination, the Department has considered certain mitigating factors and their effect on the appropriateness of the penalties assessed against the Respondent for the violations alleged.

By agreeing to resolve this matter through the execution of this Consent Order, Respondent voluntarily waives his right to complete the administrative hearing process; voluntarily waives his right to appeal this Consent Order or the final disposition of this

administrative matter to the Superior Court; is willing to remedy this matter; and is willing to take all necessary action as delineated in the following paragraphs of this Consent Order in order to be allowed to maintain his license in good-standing.

The Respondent agrees to the following:

1. Respondent shall pay as an administrative penalty the amount of TWO THOUSAND FIVE HUNDRED (\$2,500.00) DOLLARS within thirty (30) days from the date of execution of this Consent Order, made payable to the Office of the General Treasurer.

2. Respondent shall cease and desist from engaging in any property management or real estate rental activities conducted in his own name, or under the name of a company owned by him, including but not limited to Duquette Property Management, or Duquette Rentals.


3. The Respondent shall dissolve the corporation known as Duquette Property Management LLC, and provide written verification of that corporate dissolution to that Department within ten (10) days from the date of this Order.

If Respondent fails to abide by any of the requirements of this Consent Order, the Department will initiate administrative proceedings to impose penalties against Respondent including, but not limited to: (i) suspension, (ii) revocation, and/or (iii) such additional administrative penalties as deemed appropriate by the Department. Respondent shall be provided with notice and opportunity for hearing should the Department decide to take such further action.


THE DEPARTMENT AND RESPONDENT HEREBY CONSENT AND AGREE TO THE FOREGOING AS TO FORM AND SUBSTANCE:

Department of Business Regulation
By its Legal Counsel:

Respondent:



Ellen R. Balasco, Esq.
Deputy Chief of Legal Services




William Duquette

Date: 5/13/10

Date: 5-17-10

Recommended by:



Catherine R. Warren
Hearing Officer

Date: 5/13/10

ORDER

I have read the Hearing Officer's Recommendation in this matter, and I hereby take the following action with regard to the Recommendation:

- ADOPT
 REJECT
 MODIFY



A. MICHAEL MARQUES
Director

ENTERED as Administrative Order No. 10-071 on the 18th day of May, 2010.

THIS CONSENT ORDER CONSTITUTES A FINAL ORDER OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TO RHODE ISLAND GENERAL LAWS TITLE 42, CHAPTER 35. AS SUCH, THIS ORDER MAY BE APPEALED TO THE SUPERIOR COURT SITTING IN THE COUNTY OF PROVIDENCE WITHIN THIRTY (30) DAYS OF THE DATE OF THIS DECISION. SUCH APPEAL, IF TAKEN, MAY BE COMPLETED BY FILING A PETITION FOR REVIEW OF SAID COURT. HOWEVER, RESPONDENT UNDERSTANDS THAT BY WAIVING HIS RIGHT TO A COMPLETE HEARING AND AGREEING TO THE TERMS OF THIS CONSENT ORDER, THE ABOVE RIGHTS ARE WAIVED AND IF ANY TERMS OF THIS CONSENT ORDER ARE VIOLATED, FURTHER ADMINISTRATIVE ACTION MAY BE TAKEN BY THE DEPARTMENT OR IF APPROPRIATE THE MATTER MAY BE REFERRED TO THE OFFICE OF THE ATTORNEY GENERAL FOR PROSECUTION.

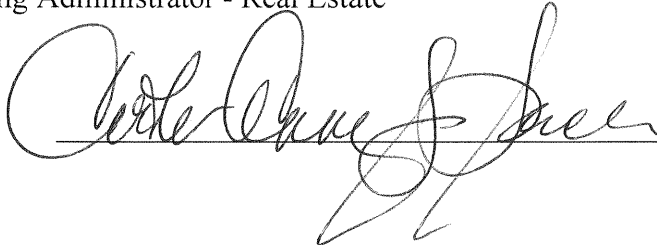
CERTIFICATION

I hereby certify on this 8th day of May, 2010 that a copy of the within Consent Order was sent by first class mail, postage prepaid, to counsel for the Respondent: Bruce Thibodeau, Esq., Thibodeau & Baker, LLP, 1420 Mendon Road, Cumberland, RI 02864, and by electronic mail in PDF format to the following parties at the Department of Business Regulation:

Ellen R. Balasco, Esq., Deputy Chief of Legal Services

Maria D'Alessandro, Associate Director – Commercial Licensing

William DeLuca, Acting Administrator - Real Estate

A handwritten signature in black ink, appearing to read "Catherine J. [unclear]", is written over a horizontal line. The signature is cursive and somewhat stylized.